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Rupert B. Hurley Jr.


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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors: KANNANKERIL et al Group Art Unit: 1733
Serial No.: 10/082,635 Examiner: Jeff H. Aftergut
Filing Date: February 25, 2002 Attorney Docket No.: D-30270-01
Title: "LAMINATED CUSHIONING ARTICLE HAVING
RECYCLED POLYESTER BARRIER LAYER"

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APPEAL BRIEF UNDER 37 CFR § 41.37

Sir:

This Brief is filed in triplicate further to the Notice of Appeal filed September 7, 2004, which is datestamped September 9, 2004, by the OIPE. The two-month period for the filing of the brief is extended two months, i.e., through Monday, January 10, 2005 (as January 9 falls on a Sunday), by the accompanying request for a 2-month extension of time. Pursuant to 37 CFR §41.20(b)(2), please charge Deposit Account No. 07-1765 in the amount of \$500.00 for filing this Brief. This sheet is being filed in duplicate.

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(1) Real Party in Interest

The real party in interest is Sealed Air Corporation (US), assignee of the above-referenced patent application.

(2) Related Appeals and Interferences

There are no other appeals, interferences or judicial proceedings known to Appellant, Appellant's legal representative, or Assignee which may be related to, directly affect, be directly affected by, or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The claims on appeal are pending Claims 12-31. A copy of Claims 12-31 appears in the Appendix. Claims 12-18 and 20 are pending as filed on February 25, 2002, i.e., have not been amended. Claim 19 has been amended once. Claims 21-31 were added after the filing date, and have not been amended. Claims 1-11 have been withdrawn from consideration as a result of a restriction requirement.

(4) Status of Amendments

No amendment has been filed after the Notice of Appeal filed September 9, 2004. All amendments filed before the filing of the Notice of Appeal have been entered.

(5) Summary of the Claimed Subject Matter

The invention is directed to a process for making a cushioning article. Claim 12, the only independent claim on appeal, is directed to a process comprising extruding a first multilayer film and extruding a second multilayer film. [Page 7 lines 3-9; Fig 3 and Page 18 lines 8-9] Each of the multilayer films has first and second outer layers each of which contains an olefin-based polymer, and an inner O₂-barrier layer. [Page 7 lines 3-9] The inner O₂-barrier layer of the first multilayer film and/or the inner O₂-barrier layer of the second multilayer film contains recycled polyester. [Page 7 lines 3-9] The first and second multilayer films are adhered to one another so that a plurality of cells are formed. [Page 7 lines 3-9; FIG. 1; FIG. 2; and FIG. 5]

(6) Grounds of Rejection to be Reviewed on Appeal

- I. Whether Claims 12-15, 21-26, 30, and 31 Are Obvious over OTTAVIANO in view of FOX or KAWAKAMI further in view of PHARO or LEWICKI et al and further in view of JP '627 or EP 483,665, or CLEMENTS
- II. Whether Claims 16-18 are Obvious over OTTAVIANO in view of FOX or KAWAKAMI further in view of PHARO or LEWICKI et al and further in view of JP '627 or EP 483,665, or CLEMENTS, further in view of CHAVANNES '387
- III. Whether Claims 19, 20, and 29 Are Obvious over OTTAVIANO in view of FOX or KAWAKAMI further in view of PHARO or LEWICKI et al and further in view of JP '627 or EP 483,665, or CLEMENTS, further in view of MATARASSO, DeLUCA et al, SIMHAEE, or LARSON '306
- IV. Whether Claims 27 and 28 Are Obvious over OTTAVIANO in view of FOX or KAWAKAMI further in view of PHARO or LEWICKI et al and further in view of JP '627 or EP 483,665, or CLEMENTS, further in view of RAMIREZ, RAMESH, or BEKELE

(7) ARGUMENT

I. Claims 12-15, 21-26, 30, and 31 Are Patentable over OTTAVIANO in view of FOX or KAWAKAMI further in view of PHARO or LEWICKI et al and further in view of JP '627 or EP 483,665, or CLEMENTS

The Office Actions have not set forth a prima facie case of obviousness of Claims 12-15, 21-26, 30, and 31 over OTTAVIANO in view of KAWAKAMI or FOX further in view of PHARO or LEWICKI et al further in view of JP '627 or EP 483,665 or CLEMENTS. Appellants admit that OTTAVIANO teaches a three layer film used to make a thermoformed cellular cushioning product having outer polyethylene layers and an internal layer of high density high melting point nylon which is substantially impervious to the passage of gases therethrough. Appellants also admit that KAWAKAMI and FOX both teach in-line extrusion for the manufacture of cellular cushioning material. However, Appellants note that while PHARO and LEWICKI et al are both directed to thermoformed air cushioning articles and both disclose polyester for use in the films, neither PHARO nor LEWICKI teaches or suggests substituting polyester for the nylon layer in OTTAVIANO.

More particularly, the disclosure in PHARO which is referred to by the Office Action, i.e. Column 8 line 66 through Col. 9 line 4, does not disclose polyester as a polymer which provides high gas barrier, and also does not disclose polyester as a substitute for nylon. Rather, PHARO discloses a mere listing of various thermoplastic polymers for use in a film which is to be used to make a cellular cushioning article. That the film could include polyester is of no special significance:

Thousands of flat, pre-sealed bags made of thin, tough thermoplastic materials such as polyethylene, vinyl, polypropylene, polyester and numerous other air-impervious plastic film combinations, can be manufactured without being filled with air, then wound on a master roll for shipment and use at a product packaging location. [PHARO, Col 8 line 66 through Col 9 line 4]

While the above passage from Column 8 of PHARO includes the phrase “air-impervious” with respect to the film, the passage places polyethylene, vinyl, and polypropylene on par with polyester and “numerous other” plastic film combinations. PHARO utterly fails to teach or suggest that polyester provides a level of imperviousness to gases which is many times greater than polyethylene, vinyl, or polypropylene. Thus, with respect to gas permeability, PHARO does not distinguish polyester from polyethylene, vinyl, polypropylene, and other polymers, and notably, the Office Action does not refer to any location in PHARO which teaches or suggests any reason to substitute polyester for the “substantially air impervious” high density high melting point nylon of OTTAVIANO. Clearly, without some teaching of the lower gas permeability of nylon and polyester over polyethylene, vinyl, and polypropylene, PHARO contains no teaching or suggestion that would have motivated one of ordinary skill to have substituted polyester for polyamide in the article of OTTAVIANO. Without some motivation to make the substitution of polyester for nylon, there is no prima facie case of obviousness. As a result, OTTAVIANO in view of PHARO fails to set forth a prima facie case of obviousness to substitute polyester of PHARO for the polyamide in OTTAVIANO.

In the final Office Action of 7 April 2004, the Examiner states that “where...two equivalents are interchangeable for their desired function (in this case either a nylon layer of [sic, or] a polyester would have presented itself as an oxygen barrier in the film material), an express suggestion of...the substitution of one for the other is not needed....” The error in this statement is that there is no teaching in PHARO that polyester is an equivalent of polyamide or is interchangeable with polyamide. Appellants contend that the Office Actions err in relying upon this statement as evidence that the disclosure in PHARO would have rendered it obvious to substitute polyester for the nylon in OTTAVIANO in order to provide the desired gas barrier properties. Again, there is no teaching in PHARO which would have led one to believe that polyester has gas barrier properties any different from polyethylene.

In stark contrast to PHARO, it should be noted that OTTAVIANO clearly characterizes the polyamide film layer as “substantially impervious to the passage of gases therethrough”, without any similar description of the polyethylene layers in the film. One of ordinary skill in the art would not have substituted any other polymer for the polyamide of OTTAVIANO. Certainly the disclosure in PHARO of polyester in a manner which appears to be the equivalent of polyethylene would not have resulted in any substitution for the nylon barrier layer of OTTAVIANO.

Turning next to the particular location in LEWICKI et al which is referred to by the Office Action, i.e. Column 2 line 28-37, Appellants point out that this passage also does not disclose polyester as substitute for nylon. Rather, in LEWICKI et al, too, there is merely a listing of various thermoplastic polymers for use in making a film for use in a cellular cushioning article:

The first embodiment of the invention is illustrated in simplified form in FIGS. 1 to 6 of the drawings. The cushioning unit 10 is preferably formed of four laminations. The uppermost sheet 1 is a thermoplastic polymeric film such as polyethylene, polypropylene, polyesters, nylon, polyvinyl chloride, polyvinylidene, polyurethane, etc., having a thickness which may range from 0.3 mil to 5 mil., or more, depending upon the intended use of the material which, of course, is gas impervious as well as abrasion and wear resistant.
[LEWICKI et al, Col. 2 lines 28-37.]

Thus, it appears that LEWICKI et al also does not distinguish the properties of polyester from polyethylene, polypropylene, and other polymers, and notably, the Office Action does not refer to any location at which LEWICKI et al teaches or suggests substituting polyester for nylon. The use of the phrase “gas impervious” in the above-quoted excerpt from LEWICKI et al is directed to the film as a whole, and does not contain any teaching or suggestion as to which layers provide more or less gas permeability. As a result, one of ordinary skill in the art would have had no reason to change the film of OTTAVIANO by substituting any other polymer for the nylon layer of the film of OTTAVIANO. As with PHARO, LEWICKI et al provides no teaching or suggestion that any one or more of the polymers listed in the above excerpt would provide a more effective gas barrier than another other polymer in the list. As a result, Appellants contend that the Office Action fails to point to any teaching or suggestion in LEWICKI et al which would have motivated one of ordinary skill in the art to substitute polyester for the nylon gas impervious central layer of the film disclosed by OTTAVIANO.

Accordingly, Appellants contend that the Office Action fails to make out a prima facie case of obviousness of any one or more of Claims 12-15, 21-26, 30, and 31, because there is no motivation to substitute the polyester of either PHARO or LEWICKI et al for any or all of the polyamide in the central layer of the film of OTTAVIANO.

Turning next to JP '627, EP '665, and CLEMENTS, Appellants admit that each of these documents discloses the use of recycled polyester in an article of manufacture. JP '627 discloses a blend of virgin and recycled PET in an extruded, laminated sheet. EP '665 discloses recycled polyester in film, injection molded products, and castings. CLEMENTS discloses the use of a blend of virgin and recycled polyester to make a crack-proof, resilient article. CLEMENTS also discloses that PET is a high cost resin, with emphasis on recycling scrap necessarily produced during thermoforming operations. However, the Office Action does not explain how any of these documents provides any motivation to substitute recycled polyester for the nylon layer in the films of OTTAVIANO. Thus, neither PHARO nor LEWICKI et al nor JP '627 nor EP '665 nor CLEMENTS provides motivation to substitute virgin and/or recycled polyester for the polyamide of the film of OTTAVIANO. As such, the Office Action fails to establish a prima facie case of obviousness.

Furthermore, even if one of ordinary skill in the art would have turned to the teaching of PHARO or LEWICKI et al for the teaching of polyester, there no teaching in PHARO or LEWICKI et al which would be directed to any polyester other than virgin polyester. A barrier layer made from 100% virgin polyester is not satisfactory in Appellants' invention, because the melting point of the virgin polyester is too high for compatible processing with the other film layers comprising polyolefin:

It has been discovered that recycled polyester can be used as a barrier layer in a multilayer film for use in making an air cellular cushioning article. It has been discovered that recycled polyester can be coextruded as an inner layer in combination with polyolefin polymer used in the outer layers of the film. It has been found that recycled polyester can be processed (i.e., extruded, formed, etc.) about 25°F lower than the temperature at which virgin polyester can be processed. This 25°F difference in processing temperature is compatible with the processing of the polyolefin-based polymers present in the outer heat seal layers of the multilayer film. The elevated processing temperature of virgin polyester has poor compatibility properties when being processed with considerably lower melting olefin-based polymers. [Appellants' specification, Page 2, lines 12-21]

Appellants' claimed invention solves a problem which is not appreciated by any one or more of OTTAVIANO, FOX, KAWAKAMI, PHARO, LEWIECKI et al, JP '627 EP '665, or CLEMENTS. Appellants' claims require that the outer layers of the films contain an olefin-based polymer. The olefin-based polymer has a significantly lower melting point than virgin polyester. There is no teaching or suggestion in any one or more of OTTAVIANO, FOX, KAWAKAMI, PHARO, LEWIECKI et al, JP '627 EP '665, or CLEMENTS to utilize the lower melting point of recycled polyester to make a polyester-containing barrier layer which can be processed compatibly with the olefin-based outer layers of the film recited in Appellants' claims.

The final Office Action states that the above argument is not commensurate with the scope of Appellants' claims because the claims do not recite the temperature at which processing occurs. Appellants contend that the argument is indeed commensurate with the scope of the claims on appeal, because each of the claims on appeal is directed to a process in which a multilayer film is extruded with an outer layer comprising an olefin based polymer and an inner O₂-barrier layer comprising a recycled polyester. The

greater extrusion compatibility of the recycled polyester over virgin polyester is indeed inherent in the extruding step of Claim 1, simply because these layers are capable of being coextruded at a lower temperature than if virgin polyester is substituted for the recycled polyester. Moreover, one of ordinary skill in the art would naturally want to take advantage of the lower melt processing temperature of the recycled polyester, in order to avoid excess energy expenditure, lower melt strength, and higher polymer degradation which occurs if extrusion is carried out at a temperature higher than that which is needed. As such, this argument is commensurate with the scope of the claims on appeal. The claims need not recite the extrusion temperature in order for this argument to be commensurate with the scope of the claims on appeal.

Based on all of the arguments set forth above, Appellants contend that Claims 12-15, 21-26, 30, and 31 are patentable over OTTAVIANO in view of either one of FOX or KAWAKAMI, further in view of either one of PHARO or LEWAICKI et al, further in view of any one of JP 10-151627, EP 483,665, or CLEMENTS.

II. Claims 16-18 Are Patentable over OTTAVIANO in view of FOX or KAWAKAMI, further in view of PHARO or LEWICKI et al, further in view of JP '627 or EP 483,665, or CLEMENTS, and further in view of CHAVANNES '387

In Section 4 of the final Office Action of April 7, 2004, and Section 5 of the 24 September 2003 Office Action, Claims 16-18 are rejected under 35 USC §103 as unpatentable over OTTAVIANO in view of FOX or KAWAKAMI, further in view of PHARO or LEWICKI et al, further in view of JP '627 or EP '665 or CLEMENTS, and further in view of U.S. Patent No. 3,294,387, to Chavannes ("CHAVANNES"). The Office Actions rely upon OTTAVIANO, FOX,

KAWAKAMI, PHARO, LEWICKI et al, JP '627, EP '665, and CLEMENTS as set forth in the rejection of Claims 12-15, 21-26, 30, and 31, and refers to Figures 5 and 23 of CHAVANNES as disclosing both films as being embossed prior to joining. In response, Appellants admit that the process illustrated in Fig. 5 of CHAVANNES includes forming both of the films before the films are adhered to one another. However, the process of Fig. 3 of CHAVANNES only includes forming one of the films before the films are adhered to one another. As such, only the embodiment of Fig. 5 is applicable to the process of Appellants' Claims 16-18, each of which recite both films as being formed before the films are adhered to one another.

Turning to the embodiment of Fig. 5 of CHAVANNES in combination with OTTAVIANO, FOX, KAWAKAMI, PHARO, LEWICKI et al, JP '627, EP '665, and CLEMENTS, Appellants again assert that Claims 16-18 are patentable over this combination of references for at least the same reasons that Claims 12-15, 21-26, 30, and 31 are patentable over OTTAVIANO, FOX, KAWAKAMI, PHARO, LEWICKI et al, JP '627, EP '665, and CLEMENTS, as set forth in the arguments under heading "I", above.

III. Claims 19, 20, and 29 Are Patentable over OTTAVIANO, in view of FOX or KAWAKAMI, further in view of PHARO or LEWICKI et al, further in view of JP '627 or EP 483,665, or CLEMENTS, and further in view of MATARASSO or DELUCA et al or SIMHAE or LARSON

In Section 5 of the final Office Action of April 7, 2004, and Section 6 of the 24 September 2003 Office Action, Claims 19, 20, and 29 are rejected under 35 USC §103 as unpatentable over OTTAVIANO in view of FOX or KAWAKAMI, further in view of PHARO or LEWICKI et al, further in view of JP '627 or EP '665 or CLEMENTS, further in view of U.S. Patent No. 2002/0094393 to Matarasso ("MATARASSO") or

U.S. Patent No. 6,410,119 to DeLuca et al (DELUCA et al”) or U.S. Patent No. 6,423,166, to Simhaee (“SIMHAEE”) or U.S. Patent No.4,096,306, to Larson (“LARSON”). The Office Action states that OTTAVIANO, FOX, KAWAKAMI, PHARO, LEWICKI et al, and CLEMENTS are relied on as in the rejection of Claims 12-15, 21-26, 30, and 31, and that MATARASSO, DELUCA et al, SIMHAEE, and LARSON each suggest a cushioning material laminated assembly which requires inflation after formation, and that such a cushioning material was well known at the time of Appellants’ invention, and that such a product would have been provided in order to reduce shipping costs of the finished assembly, and that the article would have individual pockets and/or bubbles connected by channels.

In response, Appellants admit that MATARASSO, DELUCA et al, SIMHAEE, and LARSON each teach a cushioning article which is a laminated assembly requiring inflation after formation. However, Appellants assert that Claims 19, 20, and 29 are patentable for at least the same reasons that Claims 12-15, 21-26, 30, and 31 are patentable over OTTAVIANO, FOX, KAWAKAMI, PHARO, LEWICKI et al, JP ‘627, EP ‘665, and CLEMENTS, as set forth in the arguments under heading “I”, above.

Claims 27 and 28 Are Patentable over OTTAVIANO, in view of FOX or KAWAKAMI, further in view of PHARO or LEWICKI et al, further in view of JP ‘627 or EP 483,665, or CLEMENTS, and further in view of RAMIREZ, RAMESH, or BEKELE

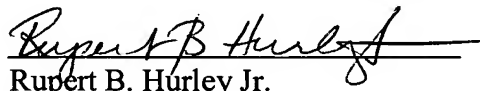
In Section 6 of the final Office Action of April 7, 2004, Claims 27 and 28 are rejected under 35 USC §103 as unpatentable over OTTAVIANO in view of FOX or KAWAKAMI, further in view of PHARO or LEWICKI et al, further in view of JP ‘627 or EP ‘665 or CLEMENTS, further in view of U.S. Patent No. 6,214,392, to Ramirez

("RAMIREZ"), or U.S. Patent No. 5,843,502, to Ramesh ("RAMESH"), or U.S. Patent No. 5,482,770, to Bekele ("BEKELE"). The Office Action relies upon OTTAVIANO, FOX, KAWAKAMI, PHARO, LEWICKI et al, JP '627, EP '665, and CLEMENTS as set forth in the rejection of Claims 12-15, 21-26, 30, and 31, and goes on to state that RAMIREZ, RAMESH, and BEKELE disclose the presence of tie layers on either side of the oxygen barrier layer in order to ensure good adhesion of the tie layer to the remainder of the assembly. In response, Appellants admit that RAMIREZ, RAMESH, and BEKELE each disclose the use of tie layers on either side of the oxygen barrier layer in order to ensure good adhesion of the tie layer to the remainder of the multilayer film. However, Appellants assert that Claims 27 and 28 are patentable for at least the same reasons that Claims 12-15, 21-26, 30, and 31 are patentable over OTTAVIANO, FOX, KAWAKAMI, PHARO, LEWICKI et al, JP '627, EP '665, and CLEMENTS, as set forth in the arguments under heading "I", above.

Conclusion

Appellant respectfully submits that, for all of the foregoing reasons, Claims 1 and 3-26 are patentable over the art of record. The rejection of those claims should therefore be reversed, with a view towards allowance.

Respectfully submitted,



Rupert B. Hurley Jr.
Attorney for Appellant
Registration No. 29,313

Sealed Air Corporation
P.O. Box 464
Duncan, SC 29334
(864) 433-3247

(8) Claims Appendix

The claims involved in this appeal are pending Claims 12-31, each of which is set forth below. Claims 1-11 are not provided because they have been withdrawn from consideration as a result of Appellants' election during prosecution.

Claim 12 (original): A process for making a cushioning article, comprising the steps of:

- (A) extruding a first multilayer film having first and second outer layers each of which contains an olefin-based polymer, and an inner O₂-barrier layer; and
- (B) extruding a second multilayer film having first and second outer layers each of which contains an olefin-based polymer, and an inner O₂-barrier layer; and
- (C) adhering the first and second multilayer films to one another so that a plurality of cells are formed; and

wherein the inner O₂-barrier layer of the first multilayer film, or the inner O₂-barrier layer of the second multilayer film, contain recycled polyester.

Claim 13 (original): The process according to Claim 12, further comprising forming a plurality of discrete cavities into the first film at spaced intervals having a ground region therebetween, the forming being carried out after extruding the first multilayer film but before adhering the first multilayer film to the second multilayer film, with the ground region of the first film being adhered to the second film, so that upon adhering the first and second multilayer films to one another, the first and second films together encapsulate a fluid within the each of the discrete cavities.

Claim 14 (original): The process according to Claim 13, wherein the forming is carried out by passing the film over a forming roller which draws discrete regions of the film into forming cavities by evacuating atmosphere from regions between the film and the forming cavity.

Claim 15 (original): The process according to Claim 13, wherein the fluid is air.

Claim 16 (original): The process according to Claim 12, further comprising forming a plurality of discrete cavities into both the first multilayer film and the second multilayer film, the plurality of discrete cavities being at spaced intervals having a ground region therebetween, the forming being carried out after extruding the first and second multilayer films but before adhering the first multilayer film to the second multilayer film, with the ground region of the first film being adhered to the ground region of the second film, so that upon adhering the first and second multilayer films to one another, the first and second films together encapsulate a fluid within the each of the discrete cavities.

Claim 17 (original): The process according to Claim 16, wherein the fluid is air.

Claim 18 (original): The process according to Claim 16 wherein the ground region of the first film is heat sealed to the ground region of the second film.

Claim 19 (previously presented): The process according to Claim 12 wherein the first and second films are heat sealed to one another to form an inflatable cushioning article having a series of cells, each of the series of cells containing a plurality of cells and a passageway connecting the cells to one another, each series of cells having a dead-end, the passageway and cells in the series being capable of being inflated by an inflation fluid, with the passageway being capable of being sealed shut so that the cells in each of the series can remain inflated.

Claim 20 (original): The process according to Claim 19, wherein the inflatable cushioning article has an open skirt along one machine-direction edge.

Claim 21 (previously presented): The process according to Claim 12, wherein the recycled polyester is present in the inner O₂-barrier layer of the first multilayer film, or the inner O₂-barrier layer of the second multilayer film, in an amount of from about 10 to 100 percent, based on polyester present in the layer.

Claim 22 (previously presented): The process according to Claim 21, wherein the recycled polyester is present in the inner O₂-barrier layer of the first multilayer film, or the inner O₂-barrier layer of the second multilayer film, in an amount of from about 30 to 100 percent, based on polyester present in the layer.

Claim 23 (previously presented): The process according to Claim 22, wherein the recycled polyester is present in the inner O₂-barrier layer of the first multilayer film, or the inner O₂-barrier layer of the second multilayer film, in an amount of from about 60 to 100 percent, based on polyester present in the layer.

Claim 24 (previously presented): The process according to Claim 23, wherein the recycled polyester is present in the inner O₂-barrier layer of the first multilayer film, or the inner O₂-barrier layer of the second multilayer film, in an amount of 100 percent, based on total polyester present in the layer.

Claim 25 (previously presented): The process according to Claim 12, wherein the recycled polyester comprises recycled polyester having an intrinsic viscosity of less than or equal to 0.8 deciliter per gram.

Claim 26 (previously presented): The process according to Claim 12, wherein the recycled polyester comprises recycled polyester having an intrinsic viscosity of from 0.8 to 1.25 deciliter per gram.

Claim 27 (previously presented): The process according to Claim 12, wherein:

(A) the first film further comprises a first tie layer between the first outer layer and the O₂-barrier layer, and a second tie layer between the second outer layer and the O₂-barrier layer; and

(B) the second film further comprises a third tie layer between the first outer layer and the O₂-barrier layer, and a fourth tie layer between the second outer layer and the O₂-barrier layer.

Claim 28 (previously presented): The process according to Claim 27, wherein:

the first tie layer comprises at least one member selected from the group consisting of anhydride-modified ethylene/alpha-olefin copolymer, ethylene/unsaturated ester copolymer, and ethylene/unsaturated acid copolymer;

the second tie layer comprises at least one member selected from the group consisting of anhydride-modified ethylene/alpha-olefin copolymer, ethylene/unsaturated ester copolymer, and ethylene/unsaturated acid copolymer;

the third tie layer comprises at least one member selected from the group consisting of anhydride-modified ethylene/alpha-olefin copolymer, ethylene/unsaturated ester copolymer, and ethylene/unsaturated acid copolymer; and

the fourth tie layer comprises at least one member selected from the group consisting of anhydride-modified ethylene/alpha-olefin copolymer, ethylene/unsaturated ester copolymer, and ethylene/unsaturated acid copolymer.

Claim 29 (previously presented): The process according to Claim 19, wherein the first multilayer film is a flat, unformed film and the second multilayer film is a flat, unformed film, and the first and second films are sealed to one another to form a plurality of cell series, each of the cell series containing a plurality of cells and a passageway connecting the cells to one another in series, the series having a dead-end,

the passageway and cells in the series being inflated by an inflation fluid, with the passageway being sealed shut so that the cells in the series remain inflated.

Claim 30 (previously presented): The process according to Claim 12, wherein a plurality of discrete cavities have been formed into the first film at spaced intervals having a ground region therebetween, and the second film is a flat film adhered to the first film in the ground region, with the first and second films encapsulating a fluid within each of the discrete cavities.

Claim 31 (previously presented): The process according to Claim 12, wherein the first film has a thickness of from about 0.2 to 10 mils, and the second film has a thickness of from about 0.2 to 10 mils.

(9) Evidence Appendix

No evidence described in 37 CFR §41.37(ix) was submitted by Appellant or entered by the Examiner.

(10) Related Proceedings Appendix

There are no other appeals, interferences or judicial proceedings known to Appellant, Appellant's legal representative, or Assignee which may be related to, directly affect, be directly affected by, or have a bearing on the Board's decision in the pending appeal.